

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANNMARIE MALLOZZI, INDIVIDUALLY AND  
ON BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

CASE No.: 1:07-cv-10321-GBD

Plaintiff,

vs.

INDUSTRIAL ENTERPRISES OF AMERICA,  
INC.; JOHN MAZZUTO; JORGE YEPES;  
DENNIS O'NEILL; and JAMES  
MARGULIES,

Defendants.

-----X

**DECLARATION OF JAMES W. MARGULIES**

Pursuant to 28 U.S.C. § 1746, James W. Margulies makes the following  
Declaration in support of Defendant Industrial Enterprises of America, Inc.'s Motion to  
Set Aside Entry of Default, Defendant James W. Margulies's Motion to Extend Time to  
File Responsive Pleading, and for all other purposes allowed by law.

1. I, James W. Margulies, am over 21 years of age and am competent to make  
this Declaration. I make this Declaration based on my personal knowledge of  
the facts, except where stated to be on information and belief.
2. I am a member in good standing of the Bars of the States of New York and  
Ohio.
3. From January 2006 through early December 2006, I served as interim Chief  
Financial Officer of Industrial Enterprises of America, Inc. ("IEAM" or the  
"Company"). Beginning in October 2007, I acted as special counsel both to

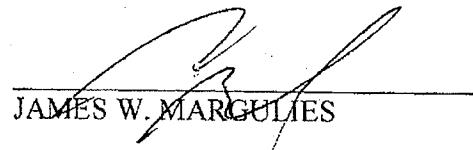
IEAM's Board of Directors of and its Audit Committee. On or about February 5, 2008, I was appointed, and currently am, the interim Chief Executive Officer and Chief Financial Officer of the Company, and a member of the Company's Board of Directors.

4. Since the Company became aware of the initial class action complaint filed against the Company and certain other persons in the U.S. District Court for the Southern District of New York captioned *Annmarie Malozzi v. Industrial Enterprises of America, Inc., et al.*, Case No. 1:07-cv-10321-GBD (the "Class Action"), and through the date of this Declaration, the Company has had a difficult and extended liquidity crisis. Consequently, the Company did not have the funds necessary to retain class action defense counsel to enter an appearance in the Class Action, despite repeated efforts to make arrangements for same.
5. On or about February 12, 2008, the Company received notice of default under its revolving credit facility with Sovereign Bank, as reflected in the Company's press release dated February 19, 2008 (a copy of which is attached hereto as Exhibit 1).
6. On or about March 7, 2008, the Company announced that it was in continuing discussions with another lender, Black Nickel Vision Fund LLC, to review and possibly restructure the relationship between the parties, as reflected in the Company's press release dated March 7, 2008 (a copy of which is attached hereto as Exhibit 2).

7. On or about April 2, 2008, the Company announced that on March 26, 2008, Sovereign Bank, the lender providing the Company's revolving credit facility, notified the Company that it would no longer make any loans or advances under the revolving credit facility or under any of its other commitments to the Company. In addition, the lender increased the rate of interest to the default rate contained in the Credit Agreement, which is 4% percent per annum in excess of the prime rate. Also on March 27, 2008, the lender notified the Company that it was revising the definitions of "Eligible Accounts," "Eligible Inventory" and "Borrowing Base" contained in the credit agreement. A copy of the Company's April 2, 2008 press release making this announcement is attached hereto as Exhibit 3.
8. I did not hire class action defense counsel for myself because I was deferring to the Company's decision to retain such defense counsel in order to enable a coordinated and efficient defense to the Class Action and to minimize the Company's defense cost obligations. Further, retaining my own individual counsel in this matter would create a substantial financial burden on me.
9. Only last week, the Company signed a term sheet for a new line of credit and the Company currently is in negotiations for a new equity investment by certain of the Company's current shareholders.
10. On November 14, 2007, Jaclyn Flores was merely a receptionist for the New York law firm from which the Company rented office space, and she has never been a Company employee, officer, director, managing or general agent, or agent authorized to accept service of process.

11. I declare under penalty of perjury that the foregoing is true and correct.

Executed on May       , 2008.

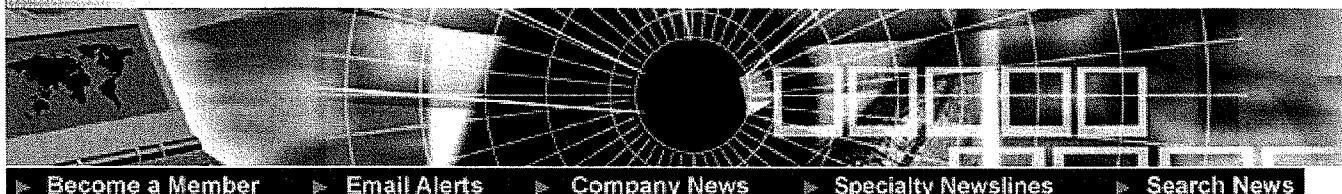


JAMES W. MARGULIES

# Exhibit 1



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## INDUSTRIAL ENTERPRISES OF AMERICA NEWS Releases



Source: Industrial Enterprises of America, Inc.

### Industrial Enterprises in Talks With Current Lender

PITTSBURGH, March 7, 2008 (PRIME NEWSWIRE) -- Industrial Enterprises of America, Inc. (Nasdaq:IEAM), an automotive aftermarket packager and supplier, reported today that the Company continues to be in discussions with Black Nickel Vision Fund LLC, "Black Nickel," regarding its recent loan to the Company.

The loan agreement with Black Nickel, dated January 6, 2008, was for a total of \$1.5 million in two tranches and is currently not secured but is to be secured upon meeting certain conditions. The Loan and Securities Purchase Agreement (the "Agreement") was properly approved by the Company's Board of Directors and then-current Chief Executive Officer. Black Nickel received 2 million shares of the Company's common stock as partial consideration for entering into the Agreement. The Company is currently working with Black Nickel to review and possibly restructure the relationship between the parties and determine how best to move forward.

#### About Industrial Enterprises of America

Industrial Enterprises of America, Inc. is an automotive aftermarket packager and supplier that specializes in the sale of anti-freeze, auto fluids, charcoal fluids and other additives and chemicals. The Company has distinct proprietary brands that collectively serve the retail, professional and discount automotive aftermarket channels. For more information please visit [www.industrialenterprisesinc.com](http://www.industrialenterprisesinc.com).

This press release contains "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. All statements, other than statements of historical fact, including, without limitation, those with respect to the objectives, plans and strategies of Industrial Enterprises of America set forth herein and those preceded by or that include the words "believes," "expects," "given," "targets," "intends," "anticipates," "plans," "projects," "forecasts" or similar expressions, are "forward-looking statements". Although the Company's management believes that such forward-looking statements are reasonable, it cannot guarantee that such expectations are, or will be, correct. These forward-looking statements involve a number of risks and uncertainties which could cause the Company's future results to differ materially from those anticipated, including: (i) the Company's history of ongoing operating losses; (ii) the overall marketplace and clients' usage of products, including demand therefore, the impact of competitive technologies, products and pricing, particularly given the substantially larger size

#### Recent Quote for IEAM

Last Trade: \$ 0.090

Trade Time: 05/09/2008

Change: +0.000 (+0.00%)

Prev Close: 0.090

52-Wk Range: 0.090 -

#### Other News Releases

##### Industrial Enterprises of America, Inc.

[Industrial Enterprises A](#)  
[Delisting From NASDAQ](#)  
[February 20, 2008](#) - Feb 20, 2008

[Industrial Enterprises Pl](#)  
[Accounting and Operati](#)  
[Update](#) - Feb 19, 2008

[IEAM Terminates Jorge](#)  
[CFO for Cause After a R](#)  
[the Independent Couns](#)  
[Audit Committee of the](#)  
[Directors](#) - Feb 11, 2008

[IEAM Announces the Re](#)  
[of Michael J. Solomon F](#)  
[Industrial Enterprises of](#)  
[America's Board of Dire](#)  
[11, 2008](#)

[Industrial Enterprises N](#)  
[James Margulies Interin](#)  
[CFO and Member of Boa](#)  
[Directors](#) - Feb 5, 2008

and scale of certain competitors and potential competitors, control of expenses, and revenue generation by the acquisition of new customers; Other risks are detailed from time to time in the Company's 2006 Annual Report on Form 10-KSB, as amended, its Quarterly Reports on Form 10-QSB, and in its other Securities and Exchange Commission reports and statements. The Company assumes no obligation to update any of the information contained or referenced in this press release.

CONTACT: Industrial Enterprises of America  
Investor Relations  
David Zazoff  
212-505-5976

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## Form 8-K for INDUSTRIAL ENTERPRISES OF AMERICA, INC.

19-Feb-2008

### Entry into a Material Definitive Agreement, Creation of a

#### Item 1.01 Entry into a Material Definitive Agreement.

On October 11, 2007, Industrial Enterprises of America, Inc., a Nevada corporation (the "Company"), and its subsidiaries, Unifide Industries, Limited Liability Company, a New Jersey limited liability company, Pitt Penn Oil Co., LLC, an Ohio limited liability company, EMC Packaging, Inc., a Delaware corporation, Todays Way Manufacturing LLC, a New Jersey limited liability company, and Pitt Penn Holding Co., LLC, an Ohio limited liability company (the "Subsidiaries," together with the Company, collectively, the "Borrowers"), entered into a Credit Agreement (the "Credit Agreement") with Sovereign Bank (the "Lender") in connection with a revolving credit line facility (the "Facility").

Pursuant to the terms of the Credit Agreement, the Lender may make revolving credit loans to the Borrowers, on a joint and several basis, in an aggregate principal amount at any time outstanding not to exceed \$5,000,000. The Facility will be available on a revolving basis during the period commencing on October 11, 2007, and ending on October 31, 2008. Under the Credit Agreement, advances are generally subject to customary borrowing conditions, including the accuracy of representations and warranties, compliance with financial maintenance and restrictive covenants and the absence of events of default.

The events of default include: (i) non-payment of principal, interest or any other amount payable under the loan documents; (ii) non-performance of covenants; (iii) material breach of representations; (iv) bankruptcy and insolvency events; and (v) John Mazzuto ceasing to serve in the position of Chairman of the Company's Executive Committee, or its equivalent. During the existence of an event of default, the Lender may take any and all of the following actions: (i) declare the Facility to be terminated, whereupon the Facility shall no longer be available to the Borrowers and the Lender shall no longer make revolving credit loans or issue letters of credit and the revolving loan period shall end; (ii) by notice of default to the Company, declare the entire amounts due under the revolving credit note and all other amounts owing or outstanding under the Credit Agreement and the other loan documents and all obligations to be immediately due and payable; or (iii) exercise any and all rights and remedies under the Credit Agreement, the other loan documents or applicable law.

Interest on each revolving credit loan shall be at a per annum rate to be elected by the Borrowers, and shall be either a fluctuating rate equal to the Prime Rate minus 0.25% or, subject to availability, the LIBOR for interest periods

selected by the Borrowers plus 2.00% pursuant to the terms and subject to the conditions of that certain Revolving Credit Note executed by the Borrowers on October 11, 2007, in favor of the Lender (the "Note"). Under the Note, the Borrowers may prepay any revolving credit loan in whole or in part without premium or penalty. The Borrowers' obligations under the Credit Agreement are secured by all of their assets pursuant to the terms and subject to the conditions of that certain First Continued, Amended and Restated Security Agreement executed by the Borrowers on October 11, 2007, in favor of the Lender (the "Security Agreement").

The foregoing summary of the Credit Agreement, the Note and the Security Agreement, is not complete and is qualified in its entirety by reference to the full text of the Credit Agreement, the Note and the Security Agreement, copies of which are attached to this Current Report on Form 8-K as Exhibits 10.1, 10.2 and 10.3, respectively, and incorporated by reference into this Item 1.01.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth in Item 1.01 of this Current Report is incorporated by reference into this Item 2.03.

**Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.**

On February 12, 2008, the Company received from the Lender a notice of default (the "Notice"), dated February 8, 2008, pursuant to the Credit Agreement. The Notice cited certain events of default which occurred and are continuing as a result of: (i) John Mazzuto ceasing to serve in the position of Chairman of Company's Executive Committee; (ii) the Borrowers permitting unsecured funded debt to exist exceeding the sum of \$3,700,000 in violation of Section 7.1 (iv) of the Credit Agreement; and (iii) the Borrowers not providing items identified in and required by the Post-Closing Letter. In addition, the Notice provides that the Borrowers have breached Section 5.1 of the Credit Agreement, which requires the Borrowers to furnish to the Lender the Company's Form 10-KSB and related financial statements of the Company and its Subsidiaries no later than 120 days after the close of each fiscal year of the Company, and the Company's Form 10-QSB and related financial statements of the Company and its subsidiaries, no later than 45 days after the close of the first 3 fiscal quarters of each year of the Company.

The Company has engaged in discussions with the Lender since its receipt of the Notice, and the Lender has informed the Company that it is not terminating the Credit Agreement, accelerating obligations thereunder or exercising other rights and remedies at the current time. However, there can be no assurances that the Lender will not exercise its rights and remedies against the Borrowers as provided for in the Credit Agreement.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit No.	Description
10.2 b	Credit Agreement, dated October 11, 2007.
10.2	Revolving Credit Note, dated October 11, 2007.
10.3	First Continued, Amended and Restated Security Agreement, dated October 11, 2007.

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## Form 8-K for INDUSTRIAL ENTERPRISES OF AMERICA, INC.

2-Apr-2008

### Entry into a Material Definitive Agreement, Creation of a

#### Item 1.01 Entry into a Material Definitive Agreement.

On October 11, 2007, Industrial Enterprises of America, Inc., a Nevada corporation (the "Company"), and its subsidiaries, Unifide Industries, Limited Liability Company, a New Jersey limited liability company, Pitt Penn Oil Co., LLC, an Ohio limited liability company, EMC Packaging, Inc., a Delaware corporation, Todays Way Manufacturing LLC, a New Jersey limited liability company, and Pitt Penn Holding Co., LLC, an Ohio limited liability company (the subsidiaries together with the Company, collectively, the "Borrowers"), entered into a Credit Agreement (the "Credit Agreement") with Sovereign Bank (the "Lender") in connection with a revolving credit line facility (the "Facility"). Pursuant to the terms of the Credit Agreement, the Lender may make revolving credit loans to the Borrowers, on a joint and several basis, in an aggregate principal amount not to exceed \$5,000,000.

As previously disclosed in its Current Report on Form 8-K filed with the Securities and Exchange Commission on February 19, 2008, the Company received a notice of default under the Credit Agreement on February 12, 2008. As a result of its continuing default, the Lender notified the Company on March 26, 2008, that it would no longer make any loans or advances under the Facility or under any of its other commitments to the Company. In addition, the Lender increased the rate of interest to the default rate contained in the Credit Agreement, which is 4% percent per annum in excess of the prime rate. Also on March 27, 2008, the Lender notified the Company that it was revising the definitions of Eligible Accounts, Eligible Inventory and Borrowing Base contained in the Credit Agreement. The Borrowing Base will now be calculated as the sum of (i) 75% of the Eligible Accounts plus (ii) the lesser of (a) 45% of the Eligible Inventory or (b) \$2,000,000.

The Company has engaged in discussions with the Lender since its receipt of the notices described above regarding a forbearance. However, there can be no assurances that the Lender will not exercise its rights and remedies against the Borrowers as provided for in the Credit Agreement.

The foregoing summary of the Credit Agreement and the amendment thereto is not complete and is qualified in its entirety by reference to the full text of the Credit Agreement and the amendment to the credit agreement. A copy of the amendment is attached to this Current Report on Form 8-K as Exhibit 10.2 and is incorporated by reference into this Item 1.01.

**Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

The information set forth in Item 1.01 of this Current Report is incorporated by reference into this Item 2.03.

**Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement.**

The information set forth in Item 1.01 of this Current Report is incorporated by reference into this Item 2.04.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits.

Exhibit No.	Description
10.1	Credit Agreement, dated October 11, 2007, incorporated by

reference to the Company's Current Report on Form 8-K filed on February 19, 2008.

10.2 Letter Amendment to Credit Agreement, dated March 27, 2008.

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